IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.O.C.P. No.1434 of 2005

Date of Decision: 21.12.2006.

Dr.Rupinder Kaur Natt.

....Petitioner.

Versus

Jai Singh Gill, IAS and others.

...Respondents.

CORAM : Hon'ble Mr. Justice Surya Kant.

Present:- Mr.Manmohan Singh, Sr.Advocate
with Mr.M.P.Gupta, Advocate
for the petitioner.

Mr.G.S.Cheema, Sr. DAG Punjab.

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SURYA KANT, J.(ORAL)

This contempt petition has been filed, inter-alia, alleging breach of the order dated 24.5.2005 passed by this Court in C.W.P. No.11664 of 2000 (Annexure-P2).

In terms of the above stated order, the petitioner was required to be appointed as an Ayurvedic Medical Officer, in Sports category, from the date persons junior to her belonging to that category, were appointed. The petitioner, however, was held entitled to the salary by re-fixtation from the date of her appointment but without any arrears. The directions were to be complied with within three weeks.

As the petitioner was not offered appointment in terms of the statement made before this Court, these contempt proceedings have been initiated by her.

In response to the show cause notice was issued to the respondents, they took the plea that a review application bearing C.M.No.1096 of 2006 had already been filed by them to seek clarification of the order dated 18.5.2005 and 24.5.2005 passed by this court in the above stated writ petition.

The afore-said review application, however, was dismissed by this Court by a self-speaking order dated 18.10.2006. It was re-iterated that the directions already issued by this Court were required to be complied with. A statement was made before this Court in this regard that needful shall be done within four weeks.

The petitioner, however, was not offered appointment. Consequently, on December 11, 2006, it was directed that the orders dated 24.5.2005 be complied with failing which respondents No.2 and 3 shall remain present in Court.

Meanwhile, it appears that the respondents also tried their luck before the Hon'ble Supreme Court but their S.L.P.(civil) No.19976 of 2005 has been dismissed by the Apex Court on 11.12.2006.

Today, Mr. G.S.Cheema, Sr. DAG Punjab, has filed an affidavit of Dr. Rana Harinder, Director Ayurveda Punjab, and along with the said affidavit, a photostat copy of the appointment letter dated 8.12.2006, vide which the petitioner has been offered appointment, has been appended.

Learned counsel for the petitioner, however, has three folded grievance: Firstly it is argued that the appointment offered to the petitioner should relate back to the date when her junior in sports category was appointed; secondly, the petitioner's pay should be fixed from the said date

of appointment and she should be paid her salary accordingly; thirdly, the petitioner should be granted arrears of pay atleast from the date of expiry of period of three weeks within which desired action in terms of the order dated 24.5.2005 (Annexure P-2) passed by this Court, was required to be taken.

Mr. G.S.Cheema, Sr.DAG Punjab, on the other hand refers to the condition No.5 of the appointment letter dated 8.12.2006 and contends that the directions issued by this Court have been fully complied with.

After hearing learned counsel for the parties, I am of the considered view that mere incorporation of Clause No.5 in the appointment order dated 8.12.2006 is not the correct compliance of the orders passed by this Court unless the consequential benefits flowing therefrom are actually released. Prima-facie, the respondents have, thus, failed to comply with the court orders in their true letter and spirit. However, having regard to the fact that the petitioner can still be effectively granted the due benefits and can be suitably compensated in monetary terms, I deem it appropriate to dispose of this contempt petition with the following directions:

(i) The petitioner shall be treated to have been appointed as Ayurvedic Medical Officer, from the date Dr. Vanita Sood, a candidate lower in merit,was appointed;

(ii)the petitioner's pay shall be fixed from the above stated deemed date of appointment;

(iv)the petitioner shall be paid her salary after granting annual increments from her deemed date of appointment;

(v)the necessary formal orders to this effect shall be communicated to the petitioner within two months from today failing which the petitioner shall be entitled to get these proceedings revived;

(vi)the petitioner is also held entitled for payment of salary w.e.f. Oct 19,2006 i.e. immediate upon dismissal of the review petition filed by the respondents;

(vii)as regards to her claim of arrears of pay from the date of expiry of three weeks period after passing of the order dated 24.5.2005 till Oct 18, 2006, liberty is granted to the petitioner to raise the said claim before an appropriate forum, if so advised.

The petitioner shall also be entitled to the costs of Rs.5000/- for these proceedings which shall also be paid to her within a period of two months.

Disposed of.

Rule discharged.

(SURYA KANT)
JUDGE

December 21,2006.

Reema